NO. 91-1263

Supreme Court, U.S.
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In the Supreme Court of the United States

OCTOBER TERM, 1991

SEWELL-ALLEN BIG STAR, INC.; BAKER BROS. INC., doing business as Baker's Big Star Stores Nos. 31, 61, 64, and 81; GILBERT ALLEN BIG STAR, INC., doing business as Big Star No. 142; SEWELL-ALLEN BIG STAR, INC., NOS. 103, 187, AND 189; SMF MANAGEMENT, INC., doing business as SMF Food Rite Supermarkets,
Petitioners,

v.

NATIONAL LABOR RELATIONS BOARD,
Respondent,

and

UNITED FOOD AND COMMERCIAL WORKERS LOCAL 1529, AFL-CIO,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

APPENDIX
VOLUME II

Decision of the Administrative Law Judge dated May 4, 1984

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I find that Todd McClellan was given and exercised the indicia of supervisory authority, and was a supervisor within the meaning of Section 2(11) of the Act during the period when he served as head meat cutter at Store No. 81. In making this determination, I have considered the fact that McClellan was the highest ranking employee on the job in the meat department except for those limited occasions each day when Mike Baker was present and visited the store. Todd McClellan exercised supervisory authority by the granting of time off and the assignment of overtime in his position as well as correction of employee mistakes and direction of work. Thus, Todd McClellan exercised the authority to permit employees time off, to leave work early, to schedule and assign overtime, and in his absence the employees in the meat department would have operated essentially without any direct supervision. See *Gerbes Supermarket, Inc.*, supra; *Big John Super Stores, Inc.*, supra. Moreover, I find that as a result of the relationship of Todd McClellan as the brother of the son-in-law of Al Baker, his interests were much more closely identified with management than with the other employees, and as will be hereinafter discussed, he exercised this unique position on behalf of management in the circulation of the decertification petitions, which petition was subsequently endorsed by Al Baker. See *Indian Head Lubricants, Inc.*, 261 NLRB 12, 18 (1982).

c. The supervisory status of Mark McClellan

Mark McClellan is the son-in-law of Al Baker, and served as the meat market manager at Store No. 31 in the summer of 1982. There was no direct evidence presented by the General Counsel concerning the supervisory status of Mark McClellan except their contention that he held the same position as meat market manager and had the apparent authority of a meat market manager, and should, accordingly, be found to be a supervisor under the Act. I find, however, that the absence of direct evidence of supervisory status is insufficient to support a finding that he was a

supervisor within the Act. However, Mark McClellan is the son-in-law of Al Baker, and this relationship cannot be ignored in assessing his apparent authority, placement, and position as meat market manager. Moreover, his utilization of that apparent authority on behalf of management in the circulation of the decertification petitions which petitions were endorsed by Al Baker demonstrated his close identification with management. Under these circumstances, I find that he possessed the apparent indicia of supervisory authority, was closely identified with management, and acted on behalf of management. *Indian Head Lubricants, Inc.*, supra.

d. The supervisory status of John Westmoreland

John Westmoreland served as a roving head meat cutter from November 1981 until July 1982 at which time he was assigned to Store No. 61 and once again became a journeyman meat cutter but continued to be paid as a head meat cutter until he was transferred to Store No. 81 in mid-August as a head meat cutter. As a roving meat cutter, Westmoreland was paid at the rate of a head meat cutter, was provided an automobile, went from store to store to demonstrate the cutting of 3-piece boneless chucks and other labor saving devices, and the teaching of improved sanitation methods to persuade head meat cutters that those particular stores should institute these ideas and programs. Both Mike Baker and Al Baker testified that Westmoreland did not have the authority to hire, fire, discipline, or schedule employees.

Apprentice meat cutter Mayfield testified that from August 1982 until the time he left Store No. 81 approximately 3 to 4 months prior to the hearing in January 1983, Westmoreland ordered beef, pork, and chickens, and gave Mayfield a price list and told him what the prices were and to change the prices for upcoming ads. If there were any need for discipline, the meat market manager would talk to

the employee and would then call Baker. When Westmoreland was initially put in charge of the meat market, he talked to Mayfield and told him he was in charge of the market and told him how he wanted things done, and if the employees did not do as he wanted them, he would find a way to have them removed or see that they would be transferred to another store.

Robert Travis, a journeyman meat cutter, who at the time of the hearing was employed at Bakers Big Star No. 61 but had previously been employed at Bakers Big Star No. 64 after having been initially transferred from Bakers Big Star No. 61 to No. 64 in January 1982, testified as follows: While he was at Bakers Big Star No. 61 in early January 1982, John Westmoreland's title was that of supervisor as he was told this by Mike Hamm who told him that Westmoreland would be his new supervisor. At that time, Hamm's position was that of market manager. Shortly after this conversation, Travis had a conversation with Westmoreland wherein he asked Westmoreland if he could get transferred back to Store No. 64. Westmoreland replied he probably could but it would be after the first of the year. While Westmoreland was meat supervisor, he had the authority to discipline employees and write up employees. Westmoreland came into Store No. 64 when Travis was transferred there, had a notebook and stated he would be back at 10 a.m., and if he found a brown piece of meat in the counter, he would write the employees up. On cross-examination, Travis testified he talked to Westmoreland about his transfer from Store No. 61 to No. 64 before Christmas and was transferred to Store No. 64 after the first of the year.

I credit the testimony of Travis and Mayfield as set out above. I find that on the basis of their unrebutted specific testimony concerning the exercise of supervisory authority by Westmoreland as meat market manager of Store No. 61 and as a roving meat cutter, that Westmoreland was a supervisor within the meaning of Sec-

tion 2(11) of the Act. *Liberty Markets, Inc.*, supra; *Big John Super Stores, Inc.*, supra.

2. The Interrogation of Mayfield by Todd McClellan

Mayfield testified that in June 1982, he was asked by Todd McClellan, the meat market manager at Store No. 81 if he was in the Union, and that at that time Todd McClellan complained to Mayfield concerning the Union as Union Representative Mancini had recently been in the market looking at the work schedules. As Todd McClellan did not testify at the hearing, the testimony of Mayfield in this instance is unrebutted. Accordingly, I find that Respondent Bakers Bros. Inc., violated Section 8(a(1) of the Act by Todd McClellan's interrogation of Mayfield concerning his union membership.

3. The Solicitation of Mayfield to Sign a Decertification Petition in Early to Mid-August 1982

Mayfield testified as follows: He was asked to sign a decertification petition during the grand opening of the store by Todd and Mark McClellan who brought the petition around and asked Mayfield to go in the back of the store and asked if he would sign the petition. They told Mayfield they were trying to get the Union decertified as it was better for the stores if they were nonunion, that the employees would make more money without the Union, and referred to a nonunion market which paid over union scale. Mayfield was also told that if the decertification petition were delayed, there could be a strike, and the Union would hire people to walk picket lines, throw things in the parking lot, and damage customers' cars, and that everyone would be hurt by a strike. The McClellans also told Mayfield they had enough signatures to decertify the Union, and they did not need his signature but he could sign the petition. He signed at the time because Mark and

Todd McClellan told him that the employees would have better wages, better benefits, that Baker was growing into a bigger corporation, and in the future it would be better for everyone without the Union. During the course of this conversation, Todd and Mark McClellan also stated that Al Baker was not going to sign a contract with the Union.

I credit the testimony of Mayfield, which testimony is unrebutted as neither Todd nor Mark McClellan were called to testify in this proceeding. Accordingly, I find that Respondent Bakers Bros. Inc., violated Section 8(a)(1) of the Act by the circulation of the decertification petition and by the solicitation of employee Mayfield to sign the petition. I, additionally, find that said Respondent violated Section 8(a)(1) of the Act by the promise to Mayfield that wages and benefits would be better without the Union. I find that the statements that there could be a strike with picket lines, misconduct, and that Al Baker would not sign another contract with the Union were also violations of Section 8(a)(1) of the Act as it demonstrated to the employees the futility of continued representation by the Union.

4. The Solicitation of Roy Needham to Sign the Decertification Petition

Needham testified that in either late July or August 1982, he was called into the office by meat market manager Hamm who asked him to sign a petition to decertify the Union. Todd and Mark McClellan were also in the office at this time. Hamm told him he did not have to do so but he would like for him to do so. Needham told Hamm he would like to think about it. During this meeting, Hamm also asked Needham if the Union were decertified, whether he would still work there. Needham replied he probably would until he could find something else. Todd McClellan asked Needham whether he would walk out if the Union picketed the store and told Needham that "if I (Needham) did, I might as well kiss it because I would lose my job." On

review of his affidavit, Needham recalled that Hamm also stated at that meeting that Al Baker did not like Leon Sheppard.

I credit the testimony of Needham which is unrebutted as Todd and Mark McClellan, and Hamm did not testify in this proceeding. Accordingly, I find that Bakers Bros. Inc., by the circulation of the decertification petition by Hamm in the presence of other supervisors, violated Section 8(a)(1) of the Act. I also find that said Respondent violated Section 8(a)(1) of the Act by reason of Todd McClellan's threat that Needham would lose his job if he joined a strike by the Union.

5. The Solicitation of Employees Monasco and Floyd for the First Decertification Petition

Monasco, a meat wrapper who has been employed by Bakers Big Star at Store No. 61 since approximately July 1982, testified that she was asked on two occasions to sign a petition to decertify Local 1529. The initial occasion occurred shortly after she went to work when Hamm spoke to her in August 1982 in the office of Store No. 61. Also present were Todd McClellan, Mark McClellan, and Westmoreland. Hamm called her into the office and explained that the contract with the Union would no longer be honored by Baker, that a new contract was coming up in October, and asked her to sign the petition which she did.

Richard Floyd, a meat cutter at Bakers Big Star No. 61 from June to December 1982, testified that approximately in August 1982, he was called into a meeting in the office at Bakers Big Star No. 61 by Meat Manager Hamm. Present in that meeting were Todd and Mark McClellan, Westmoreland, and Monasco. He testified that the two McClellans, Hamm, and Westmoreland asked him to sign a petition to decertify the Union and he did so. After signing the petition, he asked whether the employees would

lose any benefits if they withdrew from the Union and was told that they would not, and that the store could be run better without a union.

I credit the testimony of Monsaco and Floyd which is unrebutted as Hamm, Todd McClellan, Mark McClellan, and Westmoreland were not called to testify. Accordingly, I find that Respondent, by the circulation of the petition to decertify Local 1529 as the collective bargaining representative of its employees Monasco and Floyd in August 1982, violated Section 8(a)(1) of the Act. I further find that the remarks that were made to Floyd that the company could run better without the Union were violative of the Act as they constituted a promise of better conditions if the employees abandoned their support for the Union. I also find that the statement made to Monasco by Hamm that Baker would no longer honor the contract constituted a violation of Section 8(a)(1) of the Act as it demonstrated the futility of continued membership in and support of the Union.

6. The Solicitation of Mason

Mason testified that in August 1982, while she was working at Store No. 61, she and employee Patricia Doty were called into the office by Hamm. When they arrived, they found Todd and Mark McClellan, Hamm, Westmoreland, and another employee. Todd McClellan told them he was circulating a petition to give the employees the right to vote on whether to retain the Union, that there was a new president in the Union, Leon Sheppard, and that the contract (labor agreement) would not be signed because it was not the same local. He also stated there would be a lot of strain involved, and it there were a strike, it would cause the store to lose business and would cause a layoff of the employees. Mason inquired whether her position would be secure if this happened. Todd McClellan told her that the Bakers were some of the fairest people he had ever worked for and assured her that signing the petition

would in no way jeopardize her job. Mark McClellan stated that he had worked for the Bakers, they were very good people to work for, and that this was merely a petition to give the employees the right to vote on whether or not they wanted to vote the Union in or out. Either Mark or Todd McClellan told her that getting rid of the Union would not result in lower wages or benefits.

I credit the unrebutted testimony of Mason and find that Respondent Bakers violated Section 8(a)(1) of the Act by its solicitation of Mason and Doty to sign the decertification petition engaged in by Hamm, Todd and Mark McClellan, and also by Westmoreland as the solicitation and remarks by Todd and Mark McClellan were not disavowed by Westmoreland or Hamm. I also find that Todd McClellan's statement that a new contract would not be signed with the new local union was violative of Section 8(a)(1) of the Act as it demonstrated the futility of continued representation by the Union.

7. The Solicitation of Inman

Randy Inman testified that in approximately mid to late August 1982, while he was employed at Bakers Big Star No. 81, he was asked to sign a petition to decertify Local 1529 by Todd McClellan. He was cutting meat at the time and the two McClellans walked into the meat department and Todd McClellan asked if he would come to the back room to talk about something. Inman did so, and Todd McClellan then laid a piece of paper on the table and stated that he was circulating a petition against the Union, and he would like for Inman to look at it and read it. He told Inman he did not have to sign the petition. Inman did not sign the petition. At that time, Inman told Todd McClellan that he had been in the Union too long and could not afford to sign the petition. Todd McClellan then told Inman, "Randy, the Union is out, the Union is history." At that time, Mark McClellan told Inman that this time next year, Bakers Big Star would be a nonunion organization.

I credit the testimony of Inman which is unrebutted. I find that Respondent violated Section 8(a)(1) of the Act by the circulation of the decertification petition by Todd and Mark McClellan. I also find that the comments of Todd and Mark McClellan that the Union was out, and that Respondent would be a nonunion organization, demonstrated to Inman the futility of his continued support of the Union and that Respondent thereby violated Section 8(a)(1) of the Act.

8. The Solicitation of Robert Travis

Travis testified that while he was employed at Bakers Big Star No. 64 in August 1982, he was asked by Todd and Mark McClellan to sign a petition to decertify Local 1529. Todd McClellan told Travis that he had a petition to decertify the Union, that they already had 52 percent of the employees' signatures and it made no difference if Travis signed or not. Travis signed the petition. At that time Todd McClellan told Travis that the Bakers would not negotiate with the new union, and that he (Todd McClellan) would not be surprised if the employees got a raise just to get rid of the Union. Todd also asked Travis to talk to two other employees concerning the decertification petition. Todd also made a statement that Leon Sheppard was out to get the Baker stores and that Baker did not want anything to do with Sheppard.

I credit the unrebutted testimony of Travis and find that Respondent violated Section 8(a)(1) of the Act by the solicitation of Travis to sign the petition by Todd and Mark McClellan. I further find that Todd McClellan's statement that Baker wanted nothing to do with Sheppard and would not negotiate with the Union was a threat of the futility of continued membership in and support of the Union, and was violative of Section 8(a)(1) of the Act. I further find that the statement by Todd McClellan that he would not be surprised if the employees got a raise just to get rid of the Union was an implied promise of a wage in-

crease if the employees chose to decertify the Union, and was violative of Section 8(a)(1) of the Act.

9. The Interrogation of Mayfield by Westmoreland

Mayfield testified that on August 5, 1982, Westmoreland talked to him near the meat department and asked whether he had been to the union meeting the night before. Mayfield replied that he had and wanted to hear the Union's side of the story, and told Westmoreland what had transpired at the meeting. Westmoreland told Mayfield that when the election came up pursuant to the decertification petition, that he (Mayfield) should think about how he was going to vote because if he voted to keep the union out, his job would be secure and he would not have to ever worry about anything. Westmoreland referred to Mayfield's upcoming wedding at the end of the month and told him that he (Mayfield) needed a job and that if he voted to keep the Union in, he would either lose his job or be cut from 40 hours to 20 to 25 hours per week, and that Mayfield had better think long and hard about how he was going to vote.

I credit the unrebutted testimony of Mayfield, and I find that by Westmoreland's interrogation of Mayfield as to whether he had attended the union meeting, that Respondent Bakers violated Section 8(a)(1) of the Act. I further find that by the issuance of the threat by Westmoreland to Mayfield that if Mayfield voted for the Union, he would either lose his job or have his working hours reduced, and by Westmoreland's statement that Mayfield's job would be secure and he would not have to worry about anything again which was a promise of security if Mayfield voted to decertify the Union, that said Respondent also violated Section 8(a)(1) of the Act.

10. The Interrogation of Mayfield by Al Baker

Mayfield testified that approximately 3 weeks after

the interrogation by Westmoreland, he was coming out of the cooler putting smoked meat out and Westmoreland was out front talking to Al and Mike Baker, and that Al Baker stopped him and asked him if the Union had been harassing him and he told Al Baker they had not. Al Baker then told him if he had any trouble with the Union or any problems to go tell Westmoreland and Westmoreland would take care of it. Mike Baker also asked him whether he had had any trouble with the Union. Al Baker testified that in the latter part of August 1982, while he and Mike Baker were in Store No. 81, he was informed by Westmoreland that a union man had interferred with Mayfield's work and they were probably discussing union matters. Al Baker then approached Mayfield and told him that he had been informed by Westmoreland that someone from the Union had interrupted his work, that Mayfield did not have to put up with that type of harassment, that if it occurred again, to let Westmoreland know or to call him (Al Baker), and that "we" would see that something is done about it. Baker acknowledged that Mayfield had not complained to him or anyone about being harassed by the Union, and that he (Al Baker) had initiated the conversation.

I credit the unrebutted testimony of Mayfield as set out above. I find that Respondent violated Section 8(a)(1) of the Act by the comments of Al Baker to Mayfield which constituted interrogation of Mayfield concerning his union activities and the solicitation of Mayfield to bypass his bargaining representative by bringing union contacts to the attention of management.

11. The Statements by Al Baker to Employees of Bakers Big Star No. 81 Concerning the Decertification Petition

Inman testified that in late August 1982, Al and Mike Baker came into the meat department, and Al Baker told the employees that he appreciated them standing up for the company and for signing the petition, and that he

felt as soon as he could get rid of all the interruptions, the company would operate a lot smoother. Also present during this conversation was Todd McClellan. On cross-examination, Inman recalled Baker stating that he had been informed by the NLRB that a petition had been filed for an election in their stores regarding union representation, and he understood that an overwhelming majority of the people in the meat department had signed it, that he appreciated those people who had stood up and signed the petition and he wanted employees to know that there would be an election and regardless of the outcome, they would not lose any benefits. Al Baker testified that he went to each of his three stores with his son Mike Baker and informed the employees that he had been notified by the NLRB that a petition for an election had been filed, and the employees would decide by secret ballot whether they wanted to continue union representation, but he understood that an overwhelming majority of the employees had signed the petition, and he appreciated the employees' confidence in him. He did not deny that he had made references to the interruptions with the company or that he had told the employees the company would operate a lot smoother without them. He acknowledged that he had been informed of the number of employees who had signed the petition by Todd McClellan. Baker also testified that he told the employees, regardless of the outcome of the election, there would be no loss in pay or benefits. His testimony was corroborated by Mike Baker.

I credit the unrebutted testimony of Inman. I find that under the circumstances, Al Baker's statement was an implied promise of improved working conditions as he was telling the employees that things would be better if they chose to decertify and get rid of the Union. This clearly referred to working conditions, and I find it was thereby violative of Section 8(a)(1) of the Act. *St. Francis Hospital*, 249 NLRB 180, 189-90 (1980).

12. The Solicitation of Monasco and Floyd to Sign a Second Decertification Petition

Floyd and Monasco testified that they were each approached in August 1982 by Todd McClellan while in the meat department at Big Star No. 61 and again asked to sign a second decertification petition which was then being circulated by Todd McClellan. At the time McClellan was no longer a market manager but was a journeyman meat cutter. Monasco refused to sign the petition stating that she had previously signed one and would not sign another.

I credit the unrebutted testimony of Monasco and Floyd and find that Respondent violated Section 8(a)(1) of the Act by its circulation of the second decertification petition by Todd McClellan. I recognize that at this point in time, Todd McClellan was no longer a market manager but was rather a journeyman meat cutter. However, it is clear that McClellan was serving as an agent of Respondent in the circulation of this petition and was reflecting company policy in this regard in light of the statements made by Al Baker as found herein and the prior attempts to decertify the Union by Todd McClellan. I find that Todd McClellan was placed in a unique position whereby he was least perceived to be speaking on behalf of Respondent in its attempts to decertify the Union. *Regal Shoe Shops, Nos. 2421 and 2340,* 249 NLRB 1210, 1214-5 (1980). This is so particularly with respect to Todd McClellan's relationship with Baker as a relative of the Bakers. *Indian Head Lubricants, Inc.,* supra.

13. Additional Comments and Analysis of the Section 8(a)(1) violations, the Circulation of the Decertification Petitions, and its Sponsorship by Bakers Bros., Inc.

I find that the solicitation of the employees to sign the decertification petitions and the various violations of Section 8(a)(1) of the Act by Hamm, Westmoreland, Todd and Mark McClellan were clearly sponsored and endorsed by Respondent Baker Bros., Inc. A review of these violations demonstrates that these individuals on behalf of

Respondent circulated the decertification petition, interrogated employees, promised them benefits if they abandoned the Union and signed the decertification petition, and threatened them with adverse consequences, including strikes, layoffs, and discharges, if they did not do so, and further threatened them with the futility of continuing to support the Union as Respondent would not sign a contract with the Union or deal with Sheppard. Al Baker endorsed these activities by his statement that he appreciated the signing of the decertification petition by the employees, and that he thought that things would run smoother if the interruptions (the Union) were out of the company made in the presence of Todd McClellan who had circulated the petition. Moreover, his interrogation of Mayfield concerning whether the Union was harassing him and asking him to report any further harassments to Westmoreland or to himself was consistent with the conduct of Todd and Mark McClellan, Hamm, and Westmoreland in the campaign to decertify the Union. Moreover, the supervisors were allowed to carry out those activities during the employees' working time on the employer's premises. Thus, I find that Baker Bros., Inc. bears responsibility for each of these violations.

14. Respondent Baker Bros., Inc.'s Response to Handbilling by Local 1529 on January 19, 1983, at Bakers Big Star No. 64

Joe Price, Jr., a representative of the United Food and Commercial Workers International Union, testified that on January 19, 1983, he and two members of Local 1529 went to Bakers Big Star No. 64 which was located in a shopping center at South Perkins and Knight Arnold Roads and offered union handbills to customers at Bakers Big Star. The shopping center consists of approximately 20 stores and also includes another grocery store. Price testified that they offered handbills to customers and did not attempt to stop the customers or get in their way. The handbills consisted of a price comparison between Kroger

and Bakers Big Star on several items (G.C. Exh. 54, TR 1877). They commenced handbilling at approximately 2 p.m. on the sidewalk in front of Bakers Big Star No. 64 and stayed to the side of each entrance to the store and did not block the entrance and did not have any physical contact with or make any derogatory remark to any customer. Price testified that the sidewalk was approximately 8 to 10 feet wide in front of the store. Bob Bruce, the manager of Bakers Big Star No. 64, acknowledged that he telephoned the police and asked them to handle a handbilling problem in front of the store. At about 4 p.m. two policemen arrived at the store and threatened to arrest Price and the other two handbillers if they did not move as they were on Baker's leased property. The police then told them they must picket at the entrance of the shopping center. They then did so and remained there until approximately 7 p.m. The entrance to the shopping center was approximately 50 yards from the sidewalk to the store, and in order to enter the shopping center, drivers were required to pull in quickly as automobiles were moving in a line almost continuously into the entrance from the street which was heavily trafficked. Customers were required to pull in their automobiles quickly or be subject to possible collision. As a result, the cars turned into the entrance and it was difficult to provide them with a handbill. The handbills specifically related to a dispute with Bakers Big Star rather than with any of the other tenants of the shopping center.

I find that Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act by calling the police and causing the handbillers to leave the immediate sidewalk area in front of Bakers Big Star No. 64. I have considered the Section 7 rights of the handbillers to hand out messages on behalf of the Union and the private property rights of the leaseholder (Bakers). It is clear that the Union's dispute was with Bakers and that the Union had the right to engage in informational handbilling at a place where it could reasonably expect its handbilling to have the most

effect. *Giant Food Markets, Inc.*, 241 NLRB 727, 728-9 (1979). It is also clear that the intended audience of the handbillers were the customers of Bakers Big Star, Inc. and this intended audience was readily identifiable only at such times they actually decided to enter Bakers Big Star, Inc. which was only one of 20 stores in the shopping center. The most reasonable method for the Union to get its message across was to stand on the sidewalk near Bakers Big Star No. 64. The alternative of attempting to handbill at the entrance of the shopping center was unreasonable under the circumstances as it created a danger for oncoming motorists and rendered the handbilling highly inefficient. Most motorists did not stop to take the handbills and those who did so may have been customers of the other stores in the shopping center. The placement of the handbillers at the shopping center was more detrimental to neutral employers than if the handbillers were stationed in front of Bakers Big Star No. 64. As Bakers Big Star No. 64 holds its public areas out to potential customers it has diminished property rights. The handbillers, but for the fact that they were handing out handbills on behalf of the Union, would have otherwise been welcome as potential customers at the store. *Montgomery Ward*, 265 NLRB No. 8 (1982); *Giant*, supra. Accordingly, I find that by interfering with the handbillers' Secton 7 rights, Baker Bros., Inc. violated Section 8(a)(1) of the Act.

15. The Overall Course of Conduct of Baker Bros., Inc.

I find that Baker Bros., Inc.'s course of conduct by the circulation of the decertification petition, the interrogation of its employees, the threats, and promise of benefits made in order to convince the employees to decertify the Union all in violation of Section 8(a)(1) in Bakers' efforts to rid itself of Local 1529 was inconsistent with its obligation to bargain with Local 1529 as the collective bargining representative of its employees. As such, I find that Baker Bros., Inc. violated Section 8(a)(5) and (1) of the Act by its

course of conduct to undermine Local 1529 as the bargaining representative of its employees. *Tony DeClue, an individual d/b/a Liberty Cleaners,* 227 NLRB 1296, 1303 (1977).

G. Independent Allegations of Violations By Respondents Pic-Pac, Inc., and Giant Foods, Inc., Contemporaneous With and Subsequent to the Withdrawal of Recognition

1. The November Meetings of Respondents Giant and Pic-Pac Representatives with their Employees

After the withdrawal of recognition from the Union in November 1982, Respondents Giant and Pic-Pac representatives met with employees at their stores and distributed booklets describing employee benefits (G.C. Exh. 74; C.P. Exhs. 26 and 27). In addition, another booklet for Giant's part-time employees was distributed. Melba Chesteen testified that in November 1982, she was working at Pic-Pac No. 11 and was present at a meeting where the Union was discussed among part-time checkers. The meeting was conducted by Larry Keith, a Pic-Pac supervisor, who commenced the meeting by informing the employees that Pic-Pac and the Union were in court, and that as of that day, they were no longer represented by a union, but Pic-Pac would continue to deduct their union dues and would put them in a separate trust fund. He also told them that if Pic-Pac won the court decision, the dues would be returned to the employees with interest, but if the Union won, they would get nothing. Keith also informed them that in prior meetings, employees had asked how they could get out of the Union and that they would have to send a certified letter to Bill Creech, the division manager of Pic-Pac, stating that they no longer wanted union dues withheld from their checks and would have to send one to the Union stating the same thing. No one asked questions and Keith then handed out literature. She also recalled on

further questioning by the General Counsel that Keith stated that as of that date, everyone would receive a 50-cents raise on the upcoming paycheck, and that in the future, there would be more. I credit Chesteen's testimony which is unrebutted as Keith did not testify.

DeLois Barnett and Mary Houston, who were both full time checkers at Pic-Pac No. 11, testified that they were present at a meeting attended by full time employees on either November 8 or 9, 1982, held by Larry Keith, a Pic-Pac supervisor. Keith told the employees that they no longer had a union as the company did not recognize the new union and the old union no longer existed, but they would have the same benefits as under the present union contract with the exception that they would receive a raise and, further, the full time employees would be given a retirement benefit which the previously did not have. He also told them that as far as Pic-Pac was concerned, they were union free but their union dues would continue to be withheld and put in a special fund which would draw interest, and if the courts decided for Pic-Pac, the employees would get the money back with interest. If the matter were decided for the Union, the Union would get the money. Keith was asked by the employees what would occur if they went on strike if the Union told them to walk out, and Keith replied that if the employees walked out, they might as well keep walking because he could assure them they would never hold a position with Pic-Pac again, and that he could have a new crew in their place within an hour. Keith also informed them that Pic-Pac had instituted a hot line to answer employee questions. Houston also testified that she saw a notice in the store concerning the retirement plan which was posted near the time clock about a week or two after the meeting in November 1982. I credit the testimony of Barnett and Houston, which testimony is unrebutted as Keith did not testify.

Donald Gilmore, a part-time employee at Giant employees which was one of four meetings held for Giant

employees approximately one or two weeks after a letter was sent from Giant indicating that it no longer recognized the Union. At this meeting, Giant's Division Manager LaRue spoke and the meeting was also attended by Store Manager Ashe. LaRue read from a prepared text and stated that since Local 452 had ceased to exist, there was an illegal merger, that there was a legal question over the merger, and, therefore, Giant Foods did not recognize Local 1529 as the bargaining agent of the employees, did not feel compelled to negotiate with Local 1529, had filed a lawsuit, and the Union would file a counter lawsuit, and that Giant would continue collecting their union dues and deposit them in an escrow account and that the employees no longer needed the Union because the Union had not done anything for them. He further told the employees that Giant was a fair employer and then stated that he would show them how fair Giant was as he was giving them a raise which he then announced. LaRue also told them that he had their guaranteed contract and they did not need a Union to negotiate their contract because Giant was a fair employer. LaRue had a small booklet that stated the employees were guaranteed a good job at a fair wage and a paid vacation. LaRue also informed the employees that Giant was setting up a hot line and if they had any disputes, they did not have to bother with the Union, but could call Giant representatives directly through the hot line and the matter could be worked out with either the store manager or with the division manager. LaRue also informed them that the employer was attempting to start a pension plan for full-time employees which would not affect part-time employees. After reading from the prepared text, LaRue stated that if they did not wish to have their dues deduction deposited in an escrow account, they could obtain them by going to the office next door and signing a slip of paper to withdraw from the Union.

LaRue acknowledged that shortly after the withdrawal of recognition, Giant gave wage increases to its employees. He believes it was approximately 2 to 4 days

afterward. There was also a new grievance procedure instituted as was the production and printing of employee benefit booklets. Additionally, there was a new pension plant implemented for grocery employees. Giant has since refused to accept any grievances from Local 1529 and that policy has continued until the date of the hearing. I credit the testimony of Gilmore which is unrebutted as LaRue did not specifically address the contents of this meeting, nor did he dispute in his testimony that the grievance procedure was changed, raises were given to employees, or that a pension plan was instituted.

I find that Respondents Giant and Pic-Pac as set out in the meeting above violated Section 8(a)(1) of the Act following their withdrawals of recognition from the Union by soliciting their employees to withdraw from the Union by telling them that their continued contributions to the Union would be withheld although they would not be accorded the benefits of union representation because Respondent no longer recognized the Union and by volunteering instructions to the employees for their withdrawal from the Union. *Tunica Manufacturing Company, Inc.*, 236 NLRB 907 (1978).

2. The Meeting at Giant Store No. 5 Between Employee Hurdle and Store Manager Bradford

Hurdle, who is employed at Giant Store No. 5 as a sacker, testified that he attended a mandatory meeting for Giant store employees at which the employees were informed by the employer's representative that Giant no longer recognized Local 1529, which meeting I find to have occurred in November 1982. After this meeting, Store Manager Bradford spoke to him on the same date. Bradford asked Hurdle to come into his office and then asked Hurdle how he thought everything would work out with the Union situation. Hurdle replied that the employees were having problems finding out when the union meetings were. Brad-

ford told Hurdle that if he were dissatisfied with the Union and wanted to leave, he could write the Union and tell them he no longer wanted to be in the Union and that would be the end of it. I credit Hurdle's testimony which is unrebutted as Bradford did not testify. [6] I find that Giant violated Section 8(a)(1) of the Act through the interrogation of Hurdle by Bradford concerning his attitude and Union sympathies on how the dispute with the union would be resolved, and that said Respondent also violated Section 8(a)(1) of the Act when Bradford solicited Hurdle to withdraw from the Union and instructed him how to do so.

3. The Conversation Between Donald Gilmore and Giant Food Store No. 4 Manager Joe Ashe

Gilmore, an employee at Giant Food Store No. 4, testified that Joe Ashe is the store manager and the highest ranking person in authority at Giant Store No. 4 and is in charge of all personnel operations in the store, including the filling out of disciplinary action forms and has the authority to fire employees. In early October 1982, Gilmore obtained a letter from the Union which stated that there was a problem in negotiationg the contract (with Giant). Gilmore was in the office looking at the schedule and asked Ashe if he knew anything about the letter. Ashe stated he did not and asked what letter Gilmore was referring to and asked Gilmore to show him the letter. Gilmore showed Ashe the letter, and Ashe asked if he could borrow it and said he would return it after he was finished with it. He then asked Gilmore to keep him informed of any further developments in the labor dispute. Gilmore discarded the letter himself after he received it back.

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[6] I also credit Hurdle's unrebutted testimony that Bradford was manager of Store No. 5 and scheduled and granted vacation days, directed the employees, told the employees when to go on breaks, and was the highest ranking management representative at the store. I find that Bradford was a supervisor within the meaning of Section 2(11) of the Act.

I credit Gilmore's unrebutted testimony as set out above. I find that Ashe was a statutory supervisor within the meaning of Section 2(11) of the Act, as he is the highest ranking person in authority at the store. I find that Respondent Giant Food violated Section 8(a)(1) of the Act by Ashe's request that Gilmore keep him informed about any further developments concerning the labor dispute.

4. The Conversation Between Checker Allie Conard and Pic-Pac Store No. 14's Assistant Manager Noel Knott

Allie Conard testified that on the Thursday before Thanksgiving 1982, Knott returned from a manager's meeting and Conard asked him how the meeting had gone. Knott replied that the managers had been chewed out during the meeting by Creech who had told them that the store was not making any money. During the course of this conversation, Knott also informed Conard that Creech had told the managers that the day the employees took a strike vote was the day Respondent Pic-Pac would begin laying off the employees. Creech is an admitted supervisor. Conard also testified that as the assistant manager of Store No. 14, Knott and the other assistant store managers made out work schedules, did not punch the time clock, utilized an office, told the employees when to take lunch breaks, were in charge of time cards, asked the employees if they wanted to go home early when business was slow, and attended manager meetings.

Knott did not testify. I credit the unrebutted testimony of Conard and, I find that Knott is a supervisor within the meaning of Section 2(11) of the Act. I further find that Respondent Pic-Pac violated Section 8(a)(1) of the Act by Knott's relay of Creech's statement that employees would be laid off if a strike vote were taken by the employees. This statement was clearly a threat that the employees would be laid off if they chose to exercise their Section 7 rights to strike.

5. The Meeting of January 15, 1983

Conard testified that Manager Creech talked in general about the hearing and the Union, and stated that if the employees decided to take a strike vote, that Respondent Pic-Pac would commence laying employees off. According to Conard, Creech brought up the subject of a strike. Although Creech testified at the hearing, he did not address any statements made at this meeting. I credit the testimony of Conard which is unrebutted. I thus find Respondent, through the issuance of a threat of layoffs to its employees if they chose to exercise their Section 7 rights to engage in a strike, violated Section 8(a)(1) of the Act.

H. The Unilateral Changes

The evidence established, and it is undisputed, that in conjunction with their withdrawal of recognition from and refusal to bargain with the Union, the Respondents implemented certain unilateral changes in terms and conditions of employment of their employees and without furnishing notice thereof to the Union and without affording the Union an opportunity to bargain concerning those changes. Specifically, Respondent Gilbert Allen Big Star unilaterally instituted wage increases and refused to furnish information to the Union. Respondents Sewell's Big Star, Sewell-Allen, and Sewell Allen No. 2 unilaterally instituted wage increases, refused to process grievances filed by the Union, denied access of Union representatives to their stores and refused to furnish information to the Union. Respondent Bakers instituted wage increases, refused to process grievances filed by the Union, failed to deduct and remit union dues to the Unions required by the terms of its expired labor agreement, and refused to furnish information to the Union. Respondent SMF instituted wage increases, refused to process grievances, and refused to furnish information to the Union. Respondents Giant and Pic-Pac instituted wage increases, instituted a new pension plan for its full-time employees, refused and failed

to remit union dues deducted from their employees to the Union as required by the terms of their expired labor agreement, denied access of union representatives to its employees in its stores, refused to process grievances filed by the Union, instituted a new grievance procedure, instituted a change in insurance carrier for its meat department employees, and refused to furnish information to the Union.

All Respondents stipulated that at the time of the implementation of the wage increases, the current financial condition of their stores was not a factor in determining the amount of the increases. Giant and Pic-Pac also stipulated that at the time of the implementation of the pension plans for full-time employees, the current financial condition of their stores was not a factor in determining the amount of the wage increases. Respondents contend that the wage increases were implemented in accordance with their determination that a wage increase was due at the time. It is also undisputed that the Respondents did not comply with the request of John Sheppard in July 1982 for information with which to bargain concerning the new labor agreement in the fall of 1982. Additionally, Respondent Giant instituted a new notice on vacation policies. Although Giant Manager John LaRue contended this notice was merely an affirmation of the existing policy, Union Representative Mancini contended otherwise. I find that the posting of said notice by Giant constituted a unilateral change in the terms and conditions of employment of its employees.

I find that each of the changes in the terms and conditions of employment as set out above by the Respondents constituted separate violations of Section 8(a)(5) and (1) of the Act as the Respondents had an obligation to furnish notice of these changes and bargain with the Union, but in accordance with their rejection of the Union as the collective bargaining representative of their employees refused and failed to do so. I find that each of the Respondents thereby violated Section 8(a)(5) and (1) of the Act by the

implementation of each of the unilateral changes by it.

V. The Effects of the Unfair Labor Practices Upon Commerce

The unfair labor practices as found herein in Section IV above, in connection with the business of Respondents as found in Section I above have a close, intimate, and substantial relation to trade, traffic, and commerce among the several states and tend to lead to labor disputes obstructing the free flow of commerce.

Conclusions of Law

1. Respondent Sewell's Big Star, Inc.; Sewell-Allen Big Star, Inc.; Sewell-Allen Big Star, Inc. No. 2; Baker Bros., Inc.; SMF Management, Inc.; Gilbert Allen Big Star, Inc.; Pic-Pac, Inc.; and Giant Foods, Inc., are each employers engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. United Food and Commercial Workers, AFL-CIO, Local 1529, is a labor organization within the meaning of Section 2(5) of the Act.

3. The following employees of Respondent Sewell's Big Star, Inc., d/b/a Sewell's Big Star No. 187, constitute a unit appropriate for collective bargaining within the meaning of Section 9 of the Act:

> All head meat cutters, journeymen meat cutters, apprentices and wrapper-clerks.

4. The following employees of Respondent Sewell-Allen Big Star, Inc., d/b/a Sewell-Allen Big Star No. 189, constitute a unit appropriate for collective bargaining within the meaning of Section 9 of the Act:

All head meat cutters, journeymen meat cutters, apprentices and wrapper-clerks.

5. The following employees of Respondent Sewell-Allen Big Star, Inc. No. 2, d/b/a Sewell-Allen's Big Star No. 103, constitute a unit appropriate for collective bargaining within the meaning of Section 9 of the Act:

All head meat cutters, journeymen meat cutters, apprentices and wrapper-clerks.

6. The following employees of Respondent Baker Bros., Inc., d/b/a Baker's Big Star Stores Nos. 31, 61, 64, and 81, constitute a unit appropriate for collective bargaining within the meaning of Section 9 of the Act:

All head meat cutters, journeymen meat cutters, apprentices and wrapper-clerks.

7. The following employees of Respondent SMF Management, Inc., d/b/a SMF Food Rite Supermarkets, constitute a unit appropriate for collective bargaining within the meaning of Section 9 of the Act:

All head meat cutters, journeymen meat cutters, apprentices and wrappers.

8. The following employees of Respondent Gilbert Allen Big Star, Inc., d/b/a Big Star No. 142, constitute a unit appropriate for collective bargaining within the meaning of Section 9 of the Act:

All head meat cutters, journeymen meat cutters, apprentices and wrapper-clerks.

9. The following employees of Respondent Pic-Pac, Inc., constitute a unit appropriate for collective bargaining within the meaning of Section 9 of the Act:

> All head meat cutters, journeymen meat cutters, apprentices and wrappers.

10. The following employees of Respondent Giant Foods, Inc., constitute a unit appropriate for collective bargaining within the meaning of Section 9 of the Act:

> All head meat cutters, journeymen meat cutters, apprentices and wrappers.

11. The following employees of Respondent Pic-Pac, Inc., constitute a unit appropriate for collective bargaining within the meaning of Section 9 of the Act:

> All employees except meat market and professional employees.

12. The following employees of Respondent Giant Foods, Inc., constitute a unit appropriate for collective bargaining within the meaning of Section 9 of the Act:

> All employees except meat market and professional employees.

13. At the election held by United Food and Commercial Workers International Union, AFL-CIO, Local 452 among its members in February 1982 to merge with United Food and Commercial Workers International Union, AFL-CIO, Local 1529, unit included employees who were not members of Local 452 were denied the right to vote. As a consequence thereof, the merger between Local 452 and Local 1529 whereby Local 1529 was to be the successor and surviving union was invalid.

14. Each of the Respondents had knowledge of the merger in April 1982 and recognized Local 1529 as the successor of Local 452 and continued to do so until after the expiration of their collective bargaining agreement(s) with Local 452 on October 31, 1982.

15. On or about November 8, 1982, Respondents Sewell's Big Star, Inc.; Sewell Allen Big Star, Inc.; Sewell-Allen Big Star, Inc. No. 2; Baker Bros., Inc., SMF Management, Inc.; Gilbert Allen Big Star, Inc.; Pic-Pac, Inc.; and Giant Foods, Inc., each withdrew recognition from and refused to bargain with Local 1529 as the collective bargaining representative of their employees in the above appropriate units.

16. As a result of their voluntary recognition of Local 1529 as the successor of Local 452 as the collective bargaining representative of their employees and their failure to withdraw recognition from the Union until more than 6 months after their voluntary recognition of Local 1529 in April 1982, each of the Respondents is barred by Section 10(b) of the Act from raising the lack of majority status of Local 1529 as a defense to the unfair labor practice charges against them stemming from their withdrawal of recognition from Local 1529.

17. By reason of their delay in withdrawing recognition from Local 1529 until after the expiration of their collective bargaining agreements with Local 452, each of the Respondents is estopped from withdrawing recognition from Local 1529 by challenging the validity of the merger.

18. Respondents Sewell-Allen Big Star, Inc., d/b/a Big Star No. 189 and Sewell-Allen Big Star, Inc. No. 2, d/b/a Big Star No. 103 are a single employer.

19. By their withdrawal of recognition in November 1982 and continuing refusal to bargain with Local 1529 as

the collective bargaining representative of their employees in the appropriate units as found above, and to furnish information to the Union for bargaining, Respondents Sewell's Big Star, Inc.; Sewell-Allen Big Star, Inc.; Sewell-Allen Big Star, Inc. No. 2; Baker Bros., Inc.; SMF Management, Inc.; Gilbert Allen Big Star, Inc.; Pic-Pac, Inc.; and Giant Foods, Inc., violated Section 8(a)(5) and (1) of the Act.

20. By its June 28, 1982, solicitation of its employee Johnnie Worrell to withdraw as a member of Local 1529 and its promise of improvements in working conditions if he did so, Respondent Sewell-Allen Big Star, Inc. No.2, violated Section 8(a)(1) of the Act.

21. By is June 30, 1982, solicitation of its employee Worrell to withdraw from the Union, by its promise of improvements in benefits if he did so, and by its issuance of a threat of store closure if the employees did not abandon the Union, Respondent Sewell-Allen Big Star, Inc. No. 2, violated Section 8(a)(1) of the Act.

22. By its July 12, 1982, solicitation of employee Worrell to withdraw from the Union, and by its issuance of an unspecified threat to Worrell regarding his future; by its statement that it would be unable to bargain with Union President Sheppard; by its threat of plant closure if Worrell and the other employees remained in the Union; and by its promises of improvements in wages and benefits if the employees abandoned the Union, Respondent Sewell-Allen Big Star, Inc. No.2, violated Section 8(a)(1) of the Act.

23. By its July 26, 1982, interrogation of employee Worrell concerning whether he had decided to withdraw from the Union; its threat of the futility of continued representation by the Union; and by its implied promise of improvements in benefits and other terms and conditions of employment if its employees withdrew from the Union, Respondent Sewell-Allen Big Star, Inc. No. 2, violated

Section 8(a)(1) of the Act.

24. By its late July 1982 solicitation of employees Thomas Shelton, Jr., and Michael Rowley to withdraw from the Union; its promise of improvements in their retirement and insurance benefits if they did so; and its threat of less desirable working hours and loss of employment if they did not withdraw from the Union, Respondent Sewell-Allen Big Star, Inc. No. 2, violated Section 8(a)(1) of the Act.

25. By its early August 1982 solicitation of its employees Herbert Bobbitt, James Kimbrough, and Worrell to withdraw from the Union; its threat of the futility of continued Union representation as it would not allow Union President Sheppard in its store; and by its promise of improvements in wages and benefits if the employees withdrew from the Union, Respondent Sewell-Allen Big Star, Inc. No. 2, violated Section 8(a)(1) of the Act.

26. By its mid-August 1982 interrogation of its employees Worrell, Kimbrough, Shelton, Rowley, and Mary Armour concerning their support of the Union; its solicitation of its employees to withdraw from the Union; its representation to the employees that it would not bargain with or sign a labor agreement with Union President Sheppard demonstrating the futility of the employees' continued support of the Union; its promises of improvements in pension benefits if the employees withdrew from the Union; and by its threat of discharge to employee Kimbrough if he did not withdraw from the Union, Respondent Sewell-Allen Big Star, Inc. No. 2, violated Section 8()a)(1) of the Act.

27. By its solicitation of its employee, William Garland, in August 1982 to withdraw from the Union and that Garland solicit the withdrawal of its other employees from the Union; by its promise of improvements in benefits if the employees withdrew from the Union; by its subse-

quent mid-August 1982 interrogation of its employees Garland, Bobby Thurman, and Jim Perry concerning their sentiments with respect to the circulation of the decertification petition; by its solicitation of said employees to withdraw from the Union; by its promise of improvements in wages and benefits if they withdrew from the Union; by its statement that it would not negotiate with or sign a labor agreement with Union President Sheppard and the Union; and by its threat of a strike by the Union, Respondent Sewell-Allen Big Star, Inc., violated Section 8(a)(1) of the Act.

28. By its solicitation of employee Mary Fortner in late August 1982 to bypass her collective bargaining representative and to bring grievances to the attention of its management, Respondent Sewell-Allen Big Star, Inc. No. 2, violated Section 8(a)(1) of the Act.

29. By its solicitation of its employee Leroy Dancer to witdraw from the Union; by its promise to give him additional working hours if he did so; and by its solicitation and sponsorship of the filing of the decertification petition by Dancer, Respondent violated Section 8(a)(1) of the Act.

30. By the discharge of its part-time employees Bill Gross, Theresa Heist, and Becky Hordyk; and by its demotion of head meat cutter Johnnie Worrell to journeyman meat cutter in August 1982, Respondent Sewell-Allen Big Star, Inc. No. 2, violated Section 8(a)(3) and (1) of the Act.

31. By its discharge of employee James Kimbrough, Respondent Sewell-Allen Big Star, Inc. No. 2, violated Section 8(a)(3) and (1) of the Act.

32. By their implementatin of unilateral changes in the terms and conditions of employment of their employees following the withdrawal of recognition from Local 1529 by the unilaterial granting of wage increases to their employees, refusing to accept or process grievances filed by

the Union, their denial of access of Union representatives to their employees at their stores; and by refusing to furnish information to the Union, Respondents Sewell's Big Star, Inc.; Sewell-Allen Big Star, Inc.; and Sewell-Allen Big Star, Inc. No. 2, violated section 8(a)(1) and (5) of the Act.

33. By their unlawful course of conduct initiated in the summer of 1982 and continuing thereafter, whereby Respondent Sewell-Allen Big Star, Inc., engaged in violations of Section 8(a)(1) and (5) of the Act and Respondent Sewell-Allen Big Star, Inc. No. 2, engaged in violations of Section 8()a)(1), (3) and (5) of the Act, each of said Respondents has engaged in an unlawful course of conduct inconsistent with its obligation to bargain with Local 1529 as the collective bargaining representative of its employees, and has thereby committed a separate violation of Section 8(a)(5) and (1) of the Act.

34. By its interrogation of its employee William Mayfield in June 1982 concerning whether he was a member of the Union, Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act.

35. By its solicitation of its employee Mayfield in August 1982 to sign a petition to decertify the Union; by its promise to Mayfield of improvements in wages and benefits if the Union were decertified; and by its threat that it would not sign another contract with the Union, Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act.

36. By its solicitation of its employee Roy Needham to sign a petition to decertify the Union; and by its threat of discharge issued to Needham if he engaged in a strike, Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act.

37. By its solicitation of employees Richard Floyd and Mary Jane Monasco to sign a petition to decertify the

Union; by its promise of improved working conditions if the employees abandoned the Union; and by its statement that it would no longer honor the labor agreement with the Union, Respondent Baker Bros., Inc., violated Section 8(a(1) of the Act.

38. By its solicitation of its employees Vickie Mason and Patricia Doty to sign the decertification petition; and by its statement to these employees that a new labor agreement would not be signed with the Union, Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act.

39. By its solicitation of its employee Randy Inman to sign the decertification petition; and by its statement to Inman that it would be a nonunion company and that the Union was out, Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act.

40. By its solicitation of its employee Robert Travis to sign a decertification petition; and by its implied promise of a wage increase if the employees chose to decertify the Union, Respondent Baker Bros., Inc , violated Section 8(a)(1) of the Act.

41. By its interrogation of employee Mayfield on August 5, 1982, as to whether he had attended a Union meeting; by its threat to Mayfield that if he voted for the Union, he would either lose his job or have his working hours reduced; and by its promise of job security if Mayfield voted to decertify the Union, Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act.

42. By its interrogation of employee Mayfield concerning his union activities; and its solicitation of Mayfield to bypass his bargaining representatives and notify management of contacts by the Union, Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act.

43. By the statements of its President Al Baker to

the employees of Bakers Big Star No. 81 in August 1982, that the Company would run smoother as soon as he could get rid of the interruptions (Union), Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act.

44. By its solicitation of employees Monasco and Floyd to sign a second decertification petition, Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act.

45. By its sponsorship and circulation of two petitions to decertify the Union, Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act.

46. By its interference with the rights of handbillers to distribute Union handbills on the sidewalk area in front of Bakers' Big Star Store No. 64, Respondent Baker Bros., Inc., violated Section 8(a)(1) of the Act.

47. By its implementation of unilateral changes in the terms and conditions of employment of its employees following the withdrawal of recognition from Local 1529 by the unilateral granting of wage increases; refusing to accept or process grievances filed by the Union; and deducting union dues from its employees and its failure to remit them to the Union; and by refusing to furnish information to the Union; Respondent Baker Bros., Inc., violated Section 8(a)(5) and (1) of the Act.

48. By its unlawful course of conduct in its attempt to rid itself of the Union, which was inconsistent with its obligation to bargain with the Union, Respondent Baker Bros., Inc., violated Section 8(a)(5) and (1) of the Act.

49. By its implementation of unilateral changes in the terms and conditions of employment of its employees following its withdrawal of recognition from the Union; by the granting of wage increases; and by refusing to furnish information to the Union; Respondent Gilbert Allen Big Star, Inc., violated Section 8(a)(5) and (1) of the Act.

50. By its implementation of unilateral changes in the terms and conditions of employment of its employees following the withdrawal of recognition from the Union by the granting of wage increases; its refusal to furnish information to the Union; and by its refusal to process grievances; Respondent SMF Management, Inc., violated Section 8(a)(5) and (1) of the Act.

51. Respondents Giant Foods, Inc., and Pic-Pac, Inc., are, and have been at all relevant times herein, a single employer under the Act.

52. By the solicitation of their employees to withdraw from the Union following their withdrawal of recognition from the union, Respondents Giant Foods, Inc., and Pic-Pac, Inc., violated Section 8(a)(1) of the Act.

53. By the implementation of unilateral changes in the terms and conditions of employment of their employees following their withdrawal of recognition from the Union in November 1982, by granting wage increases to their employees; by their institution of pension plans for their full-time employees; by their failure to remit union dues to the Union in accordance with the terms of their expired labor agreements; by their denial of access of union representatives to their employees during working hours; by their refusal to accept or process grievances; by their institution of new grievance procedures; by their refusal to furnish information to the Union; and by their change of insurance carrier for their employees in their meat departments, Respondents Giant Foods, Inc., and Pic-Pac, Inc., violated Section 8(a)(5) and (1) of the Act.

54. By its unilateral change in its vacation policy for its employees, Respondent Giant Foods, Inc., violated Section 8(a)(5) and (1) of the Act.

55. By its interrogation of employee Stanley Hurdle concerning his union sentiments and its solicitation of

Hurdle to withdraw from the Union, Respondent Giant Foods, Inc., violated Section 8(a)(1) of the Act.

56. By its solicitation of employee Donald Gilmore to keep it informed concerning the Union, Respondent Giant Foods, Inc., violated Section 8(a)(1) of the Act.

57. By its threat of layoff if the employees chose to strike relayed to employee Allie Conard in November 1982, Respondent Pic-Pac, Inc., violated Section 8(a)(1) of the Act.

58. By its threat of layoff if the employees chose to strike issued to its employees at a meeting on January 15, 1983, by its Manager Bill Creech, Respondent Pic-Pac, Inc., violated Section 8(a)(1) of the Act.

59. The above unfair labor practices have an effect upon commerce within the meaning of Section 2(6) and (7) of the Act.

The Remedy

Having found that Respondents have engaged in violations of the Act, it will be recommended that Respondents cease and desist therefrom and take certain affirmative actions designed to effectuate the pourposes and policies of the Act and post the appropriate notices.

In accordance with my findings that Respondents unlawfully withdrew recognition from Local 1529 following the expiration of their collective bargaining agreements with Local 452, I shall order Respondents to rescind their withdrawal of recognition, and make any and all payments which would have otherwise been due under the terms of their expired labor agreements, including the payment of union dues to the Union which were unlawfully withheld by certain of Respondents. The Board does not require that employees suffer the loss of increases in wages and im-

provements in benefits under circumstances as have occurred in these cases regarding the wage increases and various improvements or increases in existing benefits or implementation of new benefits, and I, accordingly, do not recommend that the increases in wages and improvements or increases in benefits or implementation of new benefits by Respondents after their withdrawal of recognition be rescinded. *Kendall College*, 228 NLRB 1083 (1977); *Dura-Vent Corporation*, 257 NLRB 430 (1981); and *Pace Oldsmobile, Inc.*, 256 NLRB 1001 (1981). I do, however, recommend that all other terms and conditions of Respondents' collective bargaining agreements which expired on October 31, 1982, be reinstated to the status quo ante until Respondents fulfill their obligations by bargaining, upon request, with the Union as the collective bargaining representative of their employees in the appropriate units, and either reach and execute, written agreements with the Union, or, until a valid impasse occurs. I further recommend that Respondents be ordered to furnish the information requested by the Union necessary for it to bargain, upon request by the Union, within a reasonable period after said request.

I further recommend that Respondent Sewell-Allen Big Star, Inc. No. 2's discharge of employees Bill Gross, Theresa Heist, Becky Hordyk, and James Kimbrough, and the demotion of employee Johnnie Worrell, be rescinded, and that said Respondent expunge its personnel records of all references thereto and make the aforesaid employees whole with respect to any loss of seniority, earnings, and benefits which they may have incurred by reason of Respondent's unlawful actions against them.

All loss of earnings and benefits suffered by any employees of Respondents by reason of Respondents' withdrawal of recognition from the Union and refusal to bargain with the Union, and by the Union and/or employees by reason of Respondents' refusal to remit union dues as found above, and suffered by employees

Gross, Heist, Hordyk, Kimbrough, and Worrell by reason of the discrimination by Respondent Sewell-Allen Big Star, Inc. No. 2, against them shall be computed with interest in the manner prescribed in *F. W. Woolworth Company*, 90 NLRB 289 (1950) and *Florida Steel Corporation*, 231 NLRB 651 (1977).[7]

Respondents' withdrawal of recognition and refusal to bargain, as found above, constituted a complete rejection of the Union and of their employees' rights to representation for purposes of collective bargaining. Moreover, Respondents Sewell-Allen Big Star, Inc., and Sewell-Allen Big Star, Inc. No. 2, and Baker Bros. Inc., committed numerous violations of the Act in disregard of the rights of their employees under the Act. I, accordingly, find that all of Respondents' conduct in repudiating the Union goes to the heart of the collective bargaining relationship and the Section 7 rights of their employees under the Act. I, accordingly, recommend that a broad order be issued to each of the Respondents requiring it to cease and desist from violating the Act in any other manner. *Hickmott Foods, Inc.*, 242 NLRB 1357 (1979). I also recommend that Respondents be ordered to preserve and make available to the Board or its agents, upon request, for inspection and copying, all records necessary to determine the payments due and owing by Respondents under the terms of this Order, and to insure that Respondents have otherwise fully complied with the terms of this Order.

ORDER[8]

Respondents Sewell's Big Star, Inc.; Sewell-Allen

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[7] See generally, *Isis Plumbing & Heating Co.*, 138 NLRB 761 (1962).

[8] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

Big Star, Inc.; Sewell-Allen Big Star, Inc. No. 2; Baker Bros., Inc.; SMF Management, Inc.; Gilbert Allen Big Star, Inc.; Giant Foods, Inc.; and Pic-Pac, Inc., their officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Withdrawing recognition from and refusing to bargain in good faith with United Food and Commercial Workers, Local 1529.

(b) Failing and refusing to abide by the terms of their expired labor agreements with the Union, until such time as an agreement is reached with the Union, or an impasse is reached.

(c) Failing and refusing to meet and bargain in good faith with the Union.

(d) Failing and refusing to furnish the Union with relevant information necessary for it to bargain on behalf of its members.

(e) Unilaterally granting to employees increases in wages.

(f) Respondents Giant Foods, Inc., and Pic-Pac, Inc., a single employer, shall further cease and desist from interrogationg their employees concerning their union sentiments; soliciting their employees to withdraw from the Union; threatening their employees with discharge if they engage in a strike; refusing access of the Union's representatives to their stores and employees; unilaterally implementing pension plans for their full-time employees; unilaterally instituting changes in vacation policies; refusing to process grievances; unilaterally instituting a new grievance procedure; unilaterally instituting a change of insurance carrier for employees in their meat departments; and failing to remit dues to the Union pursuant to their expired labor agreements.

(g) Respondent SMF Management, Inc., shall further cease and desist from refusing to process grievances.

(h) Respondent Baker Bros., Inc., shall further cease and desist from interrogating its employees concerning their union sympathies; soliciting the withdrawal of its employees from the Union; promising increases in wages and benefits, increased job security, and improvements in their terms and conditions of employment if the employees withdraw from the Union; threatening its employees with the futility of continued support of the Union; threatening its employees with loss of jobs, discharge, or adverse changes in their terms and conditions of employment if they continue to support the Union; sponsoring the circulation of petitions among its employees to decertify the Union as their collective bargaining representative; directing their employees to bypass their collective bargaining representatives and bring contacts by the Union directly to the attention of management; failing to remit dues to the Union under the terms of the expired labor agreement; denying access of Union representatives to its employees; refusing to process grievances; and engaging in a course of conduct inconsistent with its obligations under the Act to bargain in good faith with the Union.

(i) Respondent Sewell-Allen Big Star, Inc., and Sewell-Allen Big Star, Inc. No. 2, a single employer, shall further cease and desist from interrogating their employees concerning their Union sympathies; soliciting their employees to withdraw from the Union or to sign a petition to decertify the union; sponsoring the circulation of a petition to decertify the Union; promising their employees increases in wages, benefits, working hours, improvements in their terms and conditions of employment if they sign the decertification petition or abandon the Union as their collective bargaining representative; telling its employees that the Union will strike; issuing threats of discharge, threats of store closure, statements that it will not bargain

with or sign a labor agreement with Union President Sheppard or with the Union; demoting or discharging their employees in order to further its unlawful sponsorship of the petition to decertify the Union and discharging or demoting employees because said employees oppose Respondents' unlawful conduct or to otherwise further its attempts to rid itself of the Union; refusing to process grievances; denying Union representatives access to its employees; and from engaging in a course of conduct inconsistent with its obligations under the Act to bargain in good faith with the Union.

(j) Respondent Sewell's Big Star, Inc., shall further cease and desist from refusing to accept or process grievances filed by the Union, and denying access of the Union's representatives to its employees.

(k) Respondents shall not in any other manner interfere with, restrain, or coerce their employees in the exercise of their rights guaranteed them under Section 7 of the Act.

2. Respondents shall take the following affirmative actions designed to effectuate the policies and purposes of the Act:

(a) Recognize and, upon request, meet and bargain with United Food and Commercial Workers, AFL-CIO, Local 1529, concerning the terms and conditions of employment of their employees in the aforesaid appropriate units.

(b) Furnish to the Union, upon request, relevant information in order to enable it to bargain on behalf of their unit employees.

(c) Make their unit employees whole for any loss of wages or benefits, with interest, they may have incurred as a result of the withdrawal of recognition from the Union

and refusal to bargain by Respondents and by reason of any unilateral changes instituted by Respondents in their terms and conditions of employment.

(d) Reinstate the existing terms of their expired labor agreements until such time as they have bargained in good faith with the Union and have reached a new agreement or a valid impasse. Nothing herein shall require Respondents to rescind any increases or improvements in wages or benefits or the implementation of new benefits previously granted.

(e) Respondents Sewell's Big Star, Inc.; Sewell-Allen Big Star, Inc.; Sewell-Sllen Big Star, Inc. No. 2; Giant Foods, Inc.; and Pic-Pac, Inc., shall reinstate their practice of permitting access to their employees by representatives of the Union during the working hours of their employees in non-customer areas.

(f) Respondents Giant Foods, Inc.; Pic-Pac, Inc.; and Baker Bros., Inc., shall make whole the Union for all loss of dues, with interest, suffered by reason of said Respondents' failure or refusal to remit said dues following their withdrawal of recognition from the Union, and thereafter, remit union dues in accordance with the terms of their expired labor agreements.

(g) Respondents Sewell's Big Star, Inc.; Sewell-Allen Big Star, Inc.; Sewell-Allen Big Star, Inc. No. 2; Baker Bros., Inc.; SMF Management, Inc.; Giant Foods, Inc.; and Pic-Pac, Inc., shall process grievances in accordance with the terms of their expired labor agreements.

(h) Respondent Sewell-Allen Inc. No. 2, shall offer to Bill Gross, Theresa Heist, Becky Hordyk, James Kimbrough, and Johnnie Worrell immediate and full reinstatement to their former positions, or, if those positions are no longer available, to substantially equivalent positions without prejudice to their seniority and other

rights and privileges previously enjoyed, and make said employees whole for all loss of wages and benefits they incurred by reason of said Respondent's unlawful discrimination against them in the manner set forth in this decision entitled "The Remedy," and expunge from its files all references to the discharges of Gross, Heist, Hordyk, and Kimbrough, and to the demotion of Worrell.

(i) All Respondents shall preserve and, upon request, make available to the Board for examination and copying, all payroll records, social security payment records, time cards, personnel records and reports, and all other records necessary to comply with the terms of this Order.

(j) Post at their facilities copies of the attached notices as designated for each Respondent marked "Appendices A through H."[9] Copies of the notice on forms provided by the Regional Director for Region 26, after being duly signed by their authorized representatives, shall be posted immediately upon receipt and maintained for a period of 60 consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondents to ensure that said notices are not altered, defaced, or covered by any other material.

(k) Each Respondent shall notify the Regional Director for Region 26 in writing within 20 days from the

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[9] If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

date of this Order what steps it has taken to comply with this Order.[10]

Dated, Washington, DC May 4, 1984.

/s/ Lawrence W. Cullen

Lawrence W. Cullen
Administrative Law Judge

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10 Respondents have filed various motions to dismiss the complaints and exclude evidence. I find them to be without merit, and they are hereby denied.

APPENDIX A (attachment of APPENDIX A)

JD—(ATL)—38—84

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD an agency of the UNITED STATES GOVERNMENT

The National Labor Relations board has found that we have violated the National Labor Relations Act (the Act) and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights:

To organize;
To form, join, or assist unions;
To bargain collectively through representatives of their own choice;
To act together for other mutual aid or protection;
To choose not to engage in any of these protected concerted activities.

The National Labor Relations Board has determined that our withdrawal of recognition from and refusal to bargain with United Food and Commercial Workers, AFL-CIO, Local 1529 ("the Union") was unlawful.

WE WILL NOT withdraw recognition from the Union as the representative of our employees.

WE WILL NOT fail or refuse to meet and bargain with the Union regarding terms and conditions of employment of our employees in the following appropriate bargaining unit. The appropriate bargaining unit is:

All head meat cutters, journeymen meat cutters, apprentices and wrapper-clerks.

WE WILL NOT fail or refuse to abide by the terms of our expired labor agreement with the Union, until such

time as an agreement is reached with the Union or an impasse is reached.

WE WILL NOT institute changes in the terms of the collective bargaining agreement which expired on October 31, 1982, or in any other terms and conditions of employment of our employees without bargaining with the Union.

WE WILL NOT fail or refuse to furnish the Union with relevant information necessary for it to bargain on behalf of its members.

WE WILL NOT deny reasonable access of union representatives to our employees in non-customer areas during working hours.

WE WILL NOT unilaterally grant to out employees increases in wages without duly notifying the Union and bargaining collectively in good faith concerning such proposed changes provided that nothing herein shall require us to rescind any increases in wages which we have previously granted.

WE WILL NOT refuse to process grievances in accordance with the terms of our expired labor agreement.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them under Section 7 of the National Labor Relations Act.

WE WILL recognize and, upon request, meet and bargain collectively with United Food and Commercial Workers, AFL-CIO, Local 1529 concerning the terms and conditions of employment of our employees in the unit described above.

WE WILL, upon request, furnish the Union with relevant information to enable it to bargain on behalf of our employees.

WE WILL make whole our employees for any losses they may have sustained by the implementation of any unilateral changes by us from the terms of the expired labor agreement.

WE WILL continue to apply the terms of the expired labor agreement until we have negotiated in good faith with the Union and have either reached agreement or have reached an impasse in bargaining.

Our employees have the right to join and support United Food and Commercial Workers, AFL-CIO, Local 1529, as their collective bargaining representative or to refrain from doing so.

SEWELL'S BIG STAR, INC., d/b/a BIG STAR NO. 187

(Employer)

Dated: _____ **By:** _____
(Representative) **(Title)**

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office.

Mid-Memphis Tower Building, Suite 800
1407 Union Avenue
P. O. Box 41559
Memphis, Tennessee 38174
Telephone: (901) 521-2687

APPENDIX B (attachment to Appendix A)

NOTICE TO EMPLOYES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD an agency of the UNITED STATES GOVERNMENT

The National Labor Relations Board has found that we have violated the National Labor Relations Act (the Act) and has ordered us to post this notice and abide by its terms.

Section 7 of the Act gives employees these rights:

To organize;
To form, join, or assist unions;
To bargain collectively through representatives of their own choice;
To act together for other mutual aid or protection;
To choose not to engage in any of these protected concerted activities.

The National Labor Relations Board has determined that our withdrawal of recognition from and refusal to bargain with United Food and Commercial Workers, AFL-CIO, Local 1529 ("the Union") was unlawful.

WE WILL NOT withdraw recognition from the Union as the representative of our employees.

WE WILL NOT fail and refuse to meet and bargain with the Union regarding terms and conditions of employment of our employees in the following appropriate bargaining unit. The appropriate bargaining unit is:

All head meat cutters, journeymen meat cutters, apprentices and wrapper-clerks.

WE WILL NOT fail or refuse to abide by the terms of our expired labor agreement with the Union, until such time as an agreement is reached with the Union or an impasse is reached.

WE WILL NOT institute changes in the terms of the collective bargaining agreement which expired on October 31, 1982, or in any other terms and conditions of employment of our employees without bargaining with the Union.

WE WILL NOT fail or refuse to furnish the Union with relevant information necessary for it to bargain on behalf of its members.

WE WILL NOT deny reasonable access of union representatives to our employees in non-customer areas during working hours.

WE WILL NOT unilaterally grant to our employees increases in wages without duly notifying the Union and bargaining collectively in good faith concerning such proposed changes provided that nothing herein shall require us to rescind any increases in wages which we have previously granted.

WE WILL NOT refuse to process grievances in accordance with the terms of our expired labor agreement.

WE WILL NOT interrogate our employees concerning their union sympathies; sponsor the circulation of a petition among our employees to decertify the Union as their collective bargaining representative; or solicit our employees to circulate or sign said petition with promises of increases in wages or benefits or improved working conditions; or threats of reprisals, discharge, layoff, strikes, or store closure or with the futility of continued representation by the Union or its representatives.

WE WILL NOT engage in conduct inconsistent with our obligation to bargain with the Union as the collective bargaining representative of our employees.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them under Section 7 of the National Labor Relations Act.

WE WILL recognize and, upon request, meet and bargain collectively with United Food and Commercial Workers, AFL-CIO, Local 1529 concerning the terms and conditions of employment of our employees in the unit described above.

WE WILL upon request, furnish the Union with relevant information to enable it to bargain on behalf of our employees.

WE WILL make whole our employees for any losses they may have sustained by the implementation of any unilateral changes by us from the terms of the expired labor agreement.

WE WILL continue to apply the terms of the expired labor agreement until we have negotiated in good faith with the Union and have either reached agreement or have reached an impasse in bargaining.

Our employees have the right to join and support United Food and Commercial Workers, AFL-CIO, Local 1529 as their collective bargaining representative or to refrain from doing so.

A-157

SEWELL-ALLEN BIG STAR, INC.,
d/b/a BIG STAR NO. 189

(Employer)

Dated: _____ **By:** _____
(Representative) **(Title)**

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office.

Mid-Memphis Tower Building, Suite 800
1407 Union Avenue
P. O. Box 41559
Memphis, Tennessee 38174
Telephone: (901) 521-2687

APPENDIX C (attachment to Appendix A)
JD—(ATL)—38—84

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD an agency of the UNITED STATES GOVERNMENT

The National Labor Relations Board has found that we have violated the National Labor Relations Act (the Act) and has ordered us to post this notice and abide by its terms.

Section 7 of the Act gives employees these rights:

To organize;
To form, join, or assist unions;
To bargain collectively through representatives of their own choice;
To act together for other mutual aid or protection;
To choose not to engage in any of these protected concerted activities.

The National Labor Relations Board has determined that our withdrawal of recognition from and refusal to bargain with United Food and Commercial Workers, AFL-CIO, Local 1529 ("the Union") was unlawful.

WE WILL NOT withdraw recognition from the Union as the representative of our employees.

WE WILL NOT fail and refuse to meet and bargain with the Union regarding terms and conditions of employment of our employees in the following appropriate bargaining unit. The appropriate bargaining unit is:

All head meat cutters, journeymen meat cutters, apprentices and wrapper-clerks.

WE WILL NOT fail or refuse to abide by the terms of our expired labor agreement with the Union, until such time as an agreement is reached with the Union or an impasse is reached.

WE WILL NOT institute changes in the terms of the collective bargaining agreement which expired on October 31, 1982, or in any of the other terms and conditions of employment of our employees without bargaining with the Union.

WE WILL NOT fail or refuse to furnish the Union with relevant information necessary for it to bargain on behalf of its members.

WE WILL NOT deny reasonable access of Union representatives to our employees in non-customer areas during working hours.

WE WILL NOT unilaterally grant to our employees increases in wages without duly notifying the union and bargaining collectively in good faith concerning such proposed changes provided that nothing herein shall require us to rescind any increases in wages which we have previously granted.

WE WILL NOT refuse to process grievances in accordance with the terms of our expired labor agreement.

WE WILL NOT interrogate our employees concerning their union sympathies; sponsor the circulation of a petition among our employees to decertify the Union as their collective bargaining representative; or solicit our employees to circulate or sign said petition with promises of increases in wages, or benefits, or working conditions; or threats of reprisals, discharge, layoff, strikes, or store closure or with the futility of continued representation by the Union or its representatives.

WE WILL NOT discharge or demote our employees in order to promote their support of a petition to decertify the Union or to encourage them to otherwise withdraw their support for the Union.

WE WILL NOT engage in conduct inconsistent with our obligation to bargain with the Union as the collective bargaining representative of our employees.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them under Section 7 of the National Labor Relations Act.

WE WILL recognize and, upon request, meet and bargain collectively with United Food and Commercial Workers, AFL-CIO, Local 1529 concerning the terms and conditions of employment of our employees in the unit described above.

WE WILL upon request, furnish the Union with relevant information to enable it to bargain on behalf of our employees.

WE WILL make whole our employees for any losses they may have sustained by the implementation of any unilateral changes by us from the terms of the expired labor agreement.

WE WILL reinstate employees Billy Gross, Theresa Heist, Becky Hordyk, James Kimbrough, and Johnnie Worrell to their former positions prior to our unlawful discrimination against them, or, if those positions are no longer available, to substantially equivalent positions, and **WE WILL** expunge from their personnel records all references to the discharges of Gross, Heist, Hordyk, and Kimbrough, and the demotion of Worrell.

WE WILL make employees Bill Gross, Theresa

Heist, Becky Hordyk, James Kimbrough, and Johnnie Worrell, whole for the loss of wages and benefits, with interest, including any loss of seniority they may have incurred as a result of our unlawful discrimination against them.

WE WILL continue to apply the terms of the expired labor agreement until we have negotiated in good faith with the Union and have either reached agreement or have reached an impasse in bargaining.

Our employees have the right to join and support United Food and Commercial Workers, AFL-CIO, Local 1529 as their collective bargaining representative or to refrain from doing so.

SEWELL-ALLEN BIG STAR, INC. NO. 2,
d/b/a BIG STAR NO. 187

(Employer)

Dated: _____ **By:** _____
(Representative) **(Title)**

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office.

Mid-Memphis Tower Building, Suite 800
1407 Union Avenue
P. O. Box 41559
Memphis, Tennessee 38174
Telephone: (901) 521-2687

APPENDIX D (attachment of APPENDIX A)

JD—(ATL)—38—84

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD an agenc of the UNITED STATES GOVERNMENT

The National Labor Relations board has found that we have violated the National Labor Relations Act (the Act) and has ordered us to post and abide by this notice and abide by its terms.

Section 7 of the Act gives employees these rights:

To organize;
To form, join, or assist unions;
To bargain collectively through representatives of their own choice;
To act together for other mutual aid or protection;
To choose not to engage in any of these protected concerted activities.

The National Labor Relations Board has determined that our withdrawal of recognition from and refusal to bargain with United Food and Commercial Workers, AFL-CIO, Local 1529 ("the Union") was unlawful.

WE WILL NOT withdraw recognition from the Union as the representative of our employees.

WE WILL NOT fail or refuse to meet and bargain with the Union regarding terms and conditions of employment of our employees in the following appropriate bargaining unit. The appropriate bargaining unit is:

All head meat cutters, journeymen meat cutters, apprentices and wrapper-clerks.

WE WILL NOT fail or refuse to abide by the terms of our expired labor agreement with the Union, until such time as an agreement is reached with the Union or an impasse is reached.

WE WILL NOT institute changes in the terms of the collective bargaining agreement which expired on October 31, 1982, or in any of the other terms and conditions of employment of our employees without bargaining with the Union.

WE WILL NOT fail or refuse to furnish the Union with relevant information necessary for it to bargain on behalf of its members.

WE WILL NOT unilaterally grant to our employees increases in wages without duly notifying the Union and bargaining collectively in good faith concerning such proposed changes provided that nothing herein shall require us to rescind any increases in wages which we have previously granted.

WE WILL NOT refuse to process grievances in accordance with the terms of our expired labor agreement.

WE WILL NOT fail or refuse to remit dues to the Union in accordance with the terms of our expired labor agreement.

WE WILL NOT engage in interrogation of our employees concerning their union sympathies; union membership, or attendance of union meetings; or sponsor or endorse the circulation of petitions to decertify the Union as the collective bargaining representative of our employees; or solicit our employees to sign said petitions; or promise increases in wages, or benefits, or better working conditions, or greater job security to our employees if they decertify or otherwise abandon their support for the union; or issue threats of discharge, strikes, layoffs, less favorable

working conditions, or hours if the employees continue to support the Union; or issue threats to our employees of the futility of their continued support for the Union because we will not sign a new labor agreement, or will not bargain with the Union or continue to abide by the terms of the expired labor agreement.

WE WILL NOT encourage our employees to bypass the collective bargaining representative and to bring contacts by the Union to the attention of our management.

WE WILL NOT interfere with the rights of handbillers to distribute Union handbills on the sidewalk area in front of our stores.

WE WILL NOT engage in conduct inconsistent with our obligation to bargain with the Union as the collective bargaining representative of our employees.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them under Section 7 of the National Labor Relations Act.

WE WILL recognize and, upon request, meet and bargain collectively with United Food and Commercial Workers, AFL-CIO, Local 1529 concerning the terms and conditions of employment of our employees in the unit described above.

WE WILL upon request, furnish the Union with relevant information to enable it to bargain on behalf of our employees.

WE WILL make whole our employees for any losses they may have sustained by the implementation of any unilateral changes by us from the terms of the expired labor agreement.

WE WILL continue to apply the terms of the expired labor agreement until we have negotiated in good faith with the Union and have either reached agreement or have reached an impasse in bargaining.

Our employees have the right to join and support United Food and Commercial Workers, AFL-CIO, Local 1529 as their collective bargaining representative or to refrain from doing so.

BAKER BROS., INC., d/b/a BAKERS' BIG STAR STORES NOS. 31, 61, 64, and 81

(Employer)

Dated: _____ **By:** _____
(Representative) **(Title)**

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office.

Mid-Memphis Tower Building, Suite 800
1407 Union Avenue
P. O. Box 41559
Memphis, Tennessee 38174

APPENDIX E (attachment of APPENDIX A)
JD—(ATL)—38—84

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD an agency of the UNITED STATES GOVERNMENT

The National Labor Relations Board has found that we have violated the National Labor Relations Act (the Act) and has ordered us to post and abide by its terms.

Section 7 of the Act gives employees these rights:

To organize;
To form, join, or assist unions;
To bargain collectively through representatives of their own choice;
To act together for other mutual aid or protection;
To choose not to engage in any of these protected concerted activities.

The National Labor Relations Board has determined that our withdrawal of recognition from and refusal to bargain with United Food and Commercial Workers, AFL-CIO, Local 1529 ("the Union") was unlawful.

WE WILL NOT withdraw recognition from the Union as the representative of our employees.

WE WILL NOT fail or refuse to meet and bargain with the Union regarding terms and conditions of employment of our employees in the following appropriate unit. The appropriate bargaining unit is:

All head meat cutters, journeymen meat cutters, apprentices and wrappers.

WE WILL NOT fail or refuse to abide by the terms of our expired labor agreement with the Union, until such

time as an agreement is reached with the Union or an impasse is reached.

WE WILL NOT institute changes in the terms of the collective bargaining agreement which expired on October 31, 1982, or in any other terms and conditions of employment of our employees without bargaining with the Union.

WE WILL NOT fail or refuse to furnish the union with relevant information necessary for it to bargain on behalf of its members.

WE WILL NOT unilaterally grant to our employees increases in wages without duly notifying the Union and bargaining collectively in good faith concerning such proposed changes provided that nothing herein shall require us to rescind any increases in wages which we have previously granted.

WE WILL NOT refuse to process grievances in accordance with the terms of our expired labor agreement.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them under Section 7 of the National Labor Relations Act.

WE WILL recognize and, upon request, meet and bargain collectively with United Food and Commercial Workers, AFL-CIO, Local 1529 concerning the terms and conditions of employment of our employees in the unit described above.

WE WILL, upon request, furnish the Union with relevant information to enable it to bargain on behalf of our employees.

WE WILL make whole our employees for any losses they may have sustained by the implementation of any

unilateral changes by us from the terms of the expired agreement.

WE WILL continue to apply the terms of the expired labor agreement until we have negotiated in good faith with the Union and have either reached agreement or have reached an impasse in bargaining.

Our employees have the right to join and support United Food and Commercial Workers, AFL-CIO, Local 1529 as their collective bargaining representative or to refrain from doing so.

SMF MANAGEMENT, INC., d/b/a
SMF FOOD RITE SUPERMARKETS

(Employer)

Dated: _____ **By:** _____
(Representative) **(Title)**

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office.

Mid-Memphis Tower Building, Suite 800
1407 Union Avenue
P. O. Box 41559
Memphis, Tennessee 38174
Telephone: (901) 521-2687

APPENDIX F (attachment of APPENDIX A)

JD—(ATL)—38—84

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD an agency of the UNITED STATES GOVERNMENT

The National Labor Relations board has found that we have violated the National Labor Relations Act (the Act) and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights:

To organize;
To form, join, or assist unions;
To bargain collectively through representatives of their own choice;
To act together for other mutual aid or protection;
To choose not to engage in any of these protected concerted activities.

The National Labor Relations Board has determined that our withdrawal of recognition and refusal to bargain with United Food and Commercial Workers, AFL-CIO, Local 1529 ("the Union") was unlawful.

WE WILL NOT withdraw recognition from the Union as the representative of our employees.

WE WILL NOT fail or refuse to meet and bargain with the Union regarding terms and conditions of employment of our employees in the following appropriate bargaining unit. The appropriate bargaining unit is:

> All head meat cutters, journeymen meat cutters, apprentices and wrapper-clerks.

WE WILL NOT fail or refuse to abide by the terms of our expired labor agreement with the Union, until such

time as an agreement is reached with the Union or an impasse is reached.

WE WILL NOT institute changes in the terms of the collective bargaining agreement which expired on October 31, 1982, or in any of the other terms and conditions of employment of our employees without bargaining with the Union.

WE WILL NOT fail or refuse to furnish the Union with relevant information necessary for it to bargain on behalf of its members.

WE WILL NOT unilaterally grant to our employees increases in wages without duly notifying the Union and bargaining collectively in good faith concerning such proposed changes provided that nothing herein shall require us to rescind any increases in wages which we have previously granted.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them under Section 7 of the National Labor Relations Act.

WE WILL recognize and, upon request, meet and bargain collectively with United Food and Commercial Workers, AFL-CIO, Local 1529 concerning the terms and conditions of employment of our employees in the unit described above.

WE WILL, upon request, furnish the Union with relevant information to enable it to bargain on behalf of our employees.

WE WILL make whole our employees for any losses they may have sustained by the implementation of any unilateral changes by us from the terms of the expired labor agreement.

WE WILL continue to apply the terms of the expired labor agreement until we have negotiated in good faith with the Union and have either reached an agreement or have reached an impasse in bargaining.

Our employees have the right to join and support United Food and Commercial Workers, AFL-CIO, Local 1529 as their collective bargaining representative or to refrain from doing so.

GILBERT ALLEN BIG STAR, INC., d/b/a
BIG STAR NO. 142

(Employer)

Dated: _____ **By:** _____
(Representative) **(Title)**

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office.

Mid-Memphis Tower Building, Suite 800
1407 Union Avenue
P. O. Box 41559
Memphis, Tennessee 38174
Telephone: (901) 521-2687

APPENDIX G (attachment of APPENDIX A)
JD—(ATL)—38—84

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD an agency of the UNITED STATES GOVERNMENT

The National Labor Relations board has found that we have violated the National Labor Relations Act (the Act) and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights:

To organize;
To form, join, or assist unions;
To bargain collectively through representatives of their own choice;
To act together for other mutual aid or protection;
To choose not to engage in any of these protected concerted activities.

The National Labor Relations Board has determined that our withdrawal of recognition from and refusal to bargain with United Food and Commercial Workers, AFL-CIO, Local 1529 ("the Union") was unlawful.

WE WILL NOT withdraw recognition from the Union as the representative of our employees.

WE WILL NOT fail or refuse to meet and bargain with the Union regarding terms and conditions of employment of our employees in the following appropriate bargaining units. The appropriate bargaining units are:

1. All head meat cutters, journeymen meat cutters, apprentices and wrappers.

2. All employees except meat market and professional employees.

WE WILL NOT fail or refuse to abide by the terms of our expired labor agreement with the Union, until such time as an agreement is reached with the Union or an impasse is reached.

WE WILL NOT institute changes in the terms of the collective bargaining agreement which expired on October 31, 1982, or in any of the other terms and conditions of employment of our employees without bargaining with the Union.

WE WILL NOT fail or refuse to furnish the union with relevant information necessary for it to bargain on behalf of its members.

WE WILL NOT deny reasonable access of Union representatives to our employees in non-customer areas during working hours.

WE WILL NOT unilaterally grant to our employees increases in wages and institute new pension plans, changes in insurance carrier and vacation policies, without duly notifying the Union and bargaining collectively in good faith concerning such proposed changes provided that nothing herein shall require us to rescind any increases in wages or benefits, or the implementation of new benefits which have previously been granted.

WE WILL NOT refuse to process grievances in accordance with the terms of our expired labor agreement.

WE WILL NOT institute a new grievance procedure or employee hot line or otherwise encourage our employees to bypass the Union as their collective bargaining representative by bringing grievances directly to our management.

WE WILL NOT fail or refuse to remit dues to the Union in accordance with the terms of our expired labor agreement.

WE WILL NOT interrogate our employees concerning their union sentiments; solicit our employees to withdraw from, or otherwise abandon their support of the Union; or solicit our employees to keep us informed concerning the Union's activities; or threaten our employees with layoff or discharge if they engage in a strike against us.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them under Section 7 of the National Labor Relations Act.

WE WILL recognize and, upon request, meet and bargain collectively with United Food and Commercial Workers, AFL-CIO, Local 1529 concerning the terms and conditions of employment of our employees in the units described above.

WE WILL, upon request, furnish the Union with relevant information to enable it to bargain on behalf of our employees.

WE WILL make whole our employees for any losses they may have sustained by the implementation of any unilateral changes by us from the terms of the expired labor agreement.

WE WILL make whole the Union for any loss of dues, with interest, it may have incurred as a result of our failure or refusal to remit dues to it pursuant to the expired labor agreement.

WE WILL continue to apply the terms of the expired labor agreement until we have negotiated in good faith with the Union and have either reached an agreement or have reached an impasse in bargaining.

Our employees have the right to join and support United Food and Commercial Workers, AFL-CIO, Local 1529, as their collective bargaining representative or to refrain from doing so.

GIANT FOODS, INC., A SUBSIDIARY OF MALONE & HYDE, INC.

(Employer)

Dated: _____ **By:** _____
(Representative) **(Title)**

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office.

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